

EXHIBIT A

Excerpts of Deposition of David Henry, M.D.

David Henry, M.D. Deposition 04.06.17, (Pages 28:11 to 29:4)

28

11 Q. Doctor, going back to your state of mind
12 in 2011 when you were making the decision about
13 which IVC filter to implant in Ms. Hyde, if an IVC
14 filter carried with it a significant potential for
15 serious injury or death, that would be important
16 information for you to know as a clinician?

17 MR. LEIB: Yeah, and I think that does
18 call for an expert opinion, and I would instruct
19 him not to answer. And I would invite you to
20 re-frame the question to avoid invading the
21 privilege and --

22 MS. DALY: Join in the objection.

23 BY MR. SAELTZER:

24 Q. So Doctor, I want to go -- again, we'll
25 go back, we time travel back to your thought

29

1 process in exercising your clinical judgment back
2 to 2011 regarding Ms. Hyde. Do you have that time
3 period in mind?

4 A. Sure.

David Henry, M.D. Deposition 04.06.17, (Pages 29:5 to 32:11)

29

5 Q. Okay. And if the IVC filter, the G2X
6 that you implanted in Ms. Hyde in February of 2011,
7 carried with it a significant potential for serious
8 injury or death, and the company knew about that,
9 you would have wanted them to tell you that, fair
10 to say?

11 MR. LEIB: Let me object --

12 MS. DALY: Object.

13 MR. LEIB: -- I do think --

14 MS. DALY: Object to the form.

15 MR. LEIB: Yeah, I think it's a
16 hypothetical question, and I think it does draw
17 upon his expertise to be able to -- to know what or

18 what isn't significant, what -- you know, what
19 knowledge was known. And because he doesn't recall
20 this patient, to be able to apply it to a patient
21 is calling for -- it's a hypothetical question and
22 I think it does invade a privilege in that regard.
23 So I would instruct him not to answer.

24 MR. SAELTZER: Well, my question -- this
25 jury's going to hear evidence in this case and is

30

1 going to wonder what doctors rely upon, not lawyers
2 arguing in a court of law. But they're going to
3 have to determine in this case, with this doctor,
4 what type of information was important or not
5 important to that doctor based on the way this
6 doctor applies his clinical judgment.

7 And so I'm asking this doctor, who
8 implanted this filter, for his state of mind as to
9 the type of information at that time he considered
10 relevant to his clinical judgment. He's the only
11 one who made the decision to implant this filter,
12 and so his state of mind, not his opinion, but his
13 state of mind and custom and practice at that time
14 is -- isn't an expert opinion, it's very relevant
15 to what happened.

16 MR. LEIB: And --

17 MS. DALY: I'm going to object to the
18 leading nature of the question. And if you just
19 want to ask him what did he rely on at that time,
20 that would probably be a nonleading question.

21 MR. LEIB: Okay. And just so we
22 understand my role here, my only purpose is to
23 instruct him regarding privilege and representing
24 the witness; I can't assert or argue leading,
25 foundational, or anything else. But his

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1 decision-making regarding this patient, we know he
2 doesn't remember the patient, and if the question
3 is what was your custom and practice regarding what
4 information you would use to make decisions
5 regarding this patient, that I don't have a problem

6 with, as long as it's asked in that form.
7 And if you recall, then you should
8 indicate you recall. And if you don't recall, you
9 should indicate you don't. He doesn't want you to
10 guess at what the answers are. So -- so you gotta
11 listen closely to the question. So could I ask
12 that you ask the question within a context so I
13 don't have an issue with privilege on it?

14 BY MR. SAELTZER:

15 Q. Doctor, based on your custom and
16 practice, if the company, Bard, knew that the G2X
17 filter that you implanted in Ms. Hyde carried a
18 significant risk of injury or death, that is the
19 type of information, based on your custom and
20 practice, you would have wanted to know about?

21 MS. DALY: Objection, leading, and a
22 hypothetical.

23 MR. LEIB: It's definitely a hypothetical
24 question, and the expertise that's required is to
25 know what you're talking about as to what's

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1 significant or not. And unless he has some
2 recollection of 2011 and can state the answer
3 historically as opposed to giving a new opinion
4 now -- 'cause a new opinion now is privileged in
5 this. So unless you can answer that question
6 historically as to what your thought process was in
7 2011, if this would be giving a new opinion as of
8 today, then I would instruct you not to answer.

9 THE WITNESS: If the product is FDA
10 approved and I'm comfortable with it, I don't
11 usually hesitate.

David Henry, M.D. Deposition 04.06.17 (Pages 34:8 to 35:12)

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8 Q. Getting to your custom and practice in
9 2011, was it your practice to inform the patient of
10 all known risks, meaning risks you knew about that
11 were associated with an IVC filter you were
12 recommending be implanted in that patient?

13 MR. LEIB: Let me just object, it's not
14 the proper standard under which the doctor would
15 have been practicing in 2011. So I guess I'll let
16 him go ahead and answer the question as long as it
17 isn't construed presently, or at some later date,
18 as some waiver of a privilege. Is that acceptable
19 to you?

20 MR. SAELTZER: Sure.

21 MR. LEIB: Taylor, is that acceptable to
22 you?

23 MS. DALY: Yes.

24 MR. LEIB: Go ahead.

25 THE WITNESS: Could you repeat the
35

1 question?

2 MR. SAELTZER: Let me have the reporter
3 read it back to you, Doctor.

4 COURT REPORTER: "Getting to your custom
5 and practice in 2011, was it your practice to
6 inform the patient of all known risks, meaning
7 risks you knew about that were associated with an
8 IVC filter you were recommending be implanted in
9 that patient?"

10 THE WITNESS: No, we don't -- we
11 customarily talk about common things. We don't
12 want to be excessively burdening with all risks.

David Henry, M.D. Deposition 04.06.17, (Pages 54:20 to 56:18)

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20 Q. Doctor, if the initial author of that
21 report had believed that the results of the Everest
22 G2 trial demonstrated that the G2 filter and safety
23 profile was not consistent with similarly marketed
24 IVC filters, is that the type of information, based
25 on the way you practiced medicine back in 2011, you

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1 would have wanted Bard to let you know about?

2 MR. LEIB: Yeah, let me object --

3 MS. DALY: Object to the -- object to the
4 form and lack of foundation.

5 MR. LEIB: Yeah, and I believe it invades
6 privilege, and I'll instruct him not to answer.

7 MR. SAELTZER: Again, Counsel, I'm asking
8 for his state of mind.

9 MR. LEIB: No, I understand. But he'd
10 have to review the article in order to determine
11 whether or not it contains information that would
12 be important to him in 2011. And I'm not going to
13 have him review the article.

14 MR. SAELTZER: The foundation can be
15 proven whether or not the article says that.

16 MR. LEIB: Doesn't matter. You're --

17 MR. SAELTZER: Can I --

18 MR. LEIB: -- using --

19 MR. SAELTZER: Can I please finish?
20 Whether or not or what the article says I'm not
21 asking for his testimony about. I'm asking this
22 treating doctor for the way he practiced medicine
23 and what information he considered, the type of
24 information he considered, back in 2011. And I'm
25 asking him if that type of information had existed,

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1 that would have been something he would have
2 factored into his clinical judgment.

3 MR. LEIB: You've tethered it to the
4 article, that's the problem. The form of the
5 question invades his privilege, and that's why I'm
6 instructing him not to answer.

7 BY MR. SAELTZER:

8 Q. If Bard knew that the G2X filter you
9 implanted in Ms. Hyde was not performing as well as
10 the other competitors' IVC filters, and it knew
11 that before February of 2011, is that the type of
12 information you would have considered if Bard had
13 brought that to your attention?

14 MS. DALY: Same objection.

15 THE WITNESS: I don't particularly pay
16 attention to everything that's published or comes
17 my way. And so if I had read the article, I -- I
18 may or may not have been swayed by its contents.

David Henry, M.D. Deposition 04.06.17 (Pages 60:15 to 62:16)

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15 MR. SAELTZER: Okay. Just before we get
16 to the questions, Doctor, I did want to put on the
17 record: It's my understanding, Counsel, I had told
18 you that I presented a confidentiality agreement,
19 and I had some documents, HHEs, fracture studies,
20 internal Bard documents that I was going to review
21 with the witness. But it's my understanding that
22 you're instructing the witness not to answer those
23 type of questions?

24 MR. LEIB: Yes. Unless those were
25 documents that he reviewed in the care and

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1 treatment of this patient. And I understand that
2 they were not -- these things were not available.
3 So yes, I'm instructing him not to answer. I
4 believe it's calling for an expert opinion.

5 MR. SAELTZER: You threw one thing in
6 there which I want to clarify, which is they're not
7 available to him. They're certainly not part of
8 his care and treatment. They're records that
9 predate the Bard documents that predate his care
10 and treatment. So they existed, but I don't think
11 he saw them.

12 MR. LEIB: Okay. I mean --

13 MR. SAELTZER: So you would instruct him
14 not to answer?

15 MR. LEIB: Yes.

16 MR. SAELTZER: I just wanted to make the
17 record clear, because I had a bunch of documents
18 here I was going to go through with him, but I
19 don't want to waste our time.

20 MR. LEIB: It will be the same for
21 defense counsel.

22 MS. DALY: The documents he's speaking of
23 are all internal Bard documents. Would not have
24 gone external.

EXHIBIT B

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

* * * * *

In Re Bard IVC Filters Products
Liability Litigation

No. MD-15-02641-PHX-DGC

* * * * *

DO NOT DISCLOSE - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

VIDEOTAPED DEPOSITION OF DAVID HENRY, M.D.

TAKEN AT: Leib Knott Gaynor
LOCATED AT: 219 North Milwaukee Street
Milwaukee, WI

April 6, 2017
10:07 a.m. to 12:28 p.m.
REPORTED BY ANITA K. FOSS
REGISTERED PROFESSIONAL REPORTER

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19 E X H I B I T S	
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22 2129 Dr. Henry's records of patient. . .	62

1 inferior vena cava?

2 A. Yes.

3 Q. Did you also visualize the inferior vena
4 cava when you were implanting IVC filters?

5 A. Yes.

6 Q. Is the -- well, why don't you describe
7 for the jury the main function or what function the
8 inferior vena cava performs.

9 A. If -- the inferior vena cava is a vein
10 that helps blood from our lower extremities and our
11 pelvis recirculate back in our body.

12 Q. Can it expand with varying pressures?

13 A. Yes.

14 Q. Does it expand with varying pressures?

15 A. Yes.

16 Q. Is that well known within the medical
17 community?

18 MR. LEIB: Well, let me just interject.
19 At this point he's being called as a fact witness,
20 he's not being called as an expert witness. It's
21 asking him to render an opinion as to what is or
22 isn't known within the medical community. I view
23 that as calling for an expert opinion beyond the
24 scope of his care and treatment of this patient.

25 And he has a privilege under

1 Wisconsin law, it's called -- referred to as the
2 Alt, A-L-T, privilege. And therefore, I'll
3 instruct him not to answer as to any questions that
4 are asked here today and -- you know, we'll
5 obviously take them one by one. But he has not
6 agreed to present himself here today as an expert
7 witness. So I'll be instructing him if I feel the
8 question invades that privilege.

9 BY MR. SAELTZER:

10 Q. Okay. Doctor, based on your training and
11 experience as of February 2011, was it your
12 understanding that the inferior vena cava expands
13 and contracts with normal respiratory and -- and
14 heart function?

15 A. Yes.

16 Q. Moving to February of 2011, when Ms. Hyde
17 was your patient, what hospitals did you have
18 privileges at or were you practicing in?

19 A. Franklin Hospital and St. Francis
20 Hospital.

21 Q. Back in the time period of February 2011,
22 do you recall who made the decision to use the Bard
23 G2X IVC filter as to a different Bard filter or a
24 competitor's Bard filter?

25 A. No.

1 Q. Do you know, based on the custom and
2 practice of the medical group and hospitals where
3 you were practicing at that time, if you would have
4 had input into that decision or if you would have
5 been directed by somebody else which filter to use?

6 A. I was comfortable with the product, and
7 it was available.

8 Q. Fair to say, as the implanting treating
9 physician, that you had the discretion to use the
10 IVC filter you believed was the safest and most
11 effective for your patient?

12 A. Yes.

13 Q. Am I also correct that you would never
14 put in an IVC filter unless you believed it was the
15 best performing, most effective filter for your
16 patient?

17 A. No.

18 MR. LEIB: You're asking him --

19 MS. DALY: Object to the form.

20 MR. LEIB: Yeah, you're asking him in
21 regard to your client, Ms. Herd?

22 MR. SAELTZER: I was asking about his
23 practice as of the time period of February 2011,
24 and the thought process he goes through when
25 selecting which filter to use.

1 MR. LEIB: Okay.

2 MS. DALY: Object to the form.

3 BY MR. SAELTZER:

4 Q. At least that was the hope of what I was
5 trying to ask. Sometimes when I'm asked that, I
6 say that's what I was trying to ask. I'm not sure
7 I succeeded. So what I'm getting at, or want the
8 jury to understand, is the thought process, the
9 judgment, the clinical judgment and how you
10 exercised that clinical judgment back in February
11 of 2011. Are you following me, Doctor?

12 A. Sure.

13 Q. Okay. Because you're presented with a
14 history from a patient; right?

15 A. Uh-huh.

16 Q. Is that correct?

17 A. Yes.

18 Q. You can review medical records and
19 imaging studies about the patient's condition;
20 right?

21 A. Yes.

22 Q. You want to gain an understanding, to the
23 extent you feel is necessary, of the patient's
24 condition to make treatment recommendations?

25 A. Yes.

1 Q. And then you also apply your knowledge as
2 to what possible procedures or devices are
3 available to treat that condition; right?

4 A. Yes.

5 MS. DALY: Objection. Objection,
6 leading.

7 BY MR. SAELTZER:

8 Q. And Doctor, in coming and exercising your
9 clinical discretion, do you perform a risk-benefit
10 analysis?

11 A. I get an informed consent, which includes
12 risks, benefits, and alternatives.

13 Q. When you are choosing which IVC filter to
14 implant in a patient, can you describe for me what
15 thought process you go to as to which filter you
16 select from the various options that are out there
17 in the marketplace?

18 MR. LEIB: We're talking about in or
19 around 2011 as a custom and practice pertaining to
20 your client, Lisa Herd?

21 MR. SAELTZER: Yes, in and around
22 February of 2011.

23 THE WITNESS: I look for any filter
24 that's FDA approved, that I'm familiar with
25 placing.

1 BY MR. SAELTZER:

2 Q. Back in February of 2011, was it your
3 understanding that all FDA-cleared IVC filters had
4 the same performance? They all performed the same?

5 MS. DALY: Object to the form, it's an
6 expert -- it's an expert question.

7 MR. LEIB: Frankly, I didn't hear it that
8 way, and I want to be evenhanded on it. And he's
9 not here as an expert, and he's not presenting
10 himself, but can you elaborate why you felt that
11 was an expert question so I can consider whether or
12 not he should exercise his privilege on it?

13 MS. DALY: Yes. The way that I heard the
14 question was he's being asked about his opinion
15 about various filters that were in the market at
16 the time. To me, that's an expert question.

17 MR. LEIB: Maybe we could hear the
18 question back.

19 COURT REPORTER: "Back in February of
20 2011, was it your understanding that all
21 FDA-cleared IVC filters had the same performance?
22 They all performed the same?"

23 MR. LEIB: Yeah, I -- I don't think it's
24 privileged because it was tethered to 2011, and I
25 viewed the question as pertaining to generally his

1 custom and practice at the time that he implanted
2 on Mr. Saeltzer's patient -- client. So I didn't
3 view it as invading privilege. It was historical
4 as to his thought process. So that's why I didn't
5 assert a privilege, and I wouldn't instruct him.

6 MS. DALY: I'm sorry, just again note my
7 objection.

8 MR. LEIB: Yeah, okay. And Taylor, I
9 just didn't want to -- the reason why I asked you
10 to elaborate because I -- you know, I assume that
11 you're going to be asking some questions, and I
12 want to be, as I say, evenhanded as to asserting
13 the privilege to make sure that I understand what
14 your objection is so if other objections come down
15 the pike during your questioning, you know, I'll
16 instruct him evenly between both parties.

17 MS. DALY: Thank you.

18 BY MR. SAELTZER:

19 Q. Do you have the question in mind, Doctor?
20 Would you like it read back to you?

21 A. I'm sorry, what am I being asked?

22 Q. That tells me we should probably read you
23 the question. So we'll have the question read to
24 you, Doctor.

25 COURT REPORTER: "Back in February of

1 2011, was it your understanding that all
2 FDA-cleared IVC filters had the same performance?
3 They all performed the same?"

4 THE WITNESS: I think that they -- they
5 were -- they were all very comparable.

6 BY MR. SAELTZER:

7 Q. Did you believe that they were all
8 comparable in terms of risk of complications, such
9 as migrations or fractures?

10 A. Yes.

11 Q. Doctor, going back to your state of mind
12 in 2011 when you were making the decision about
13 which IVC filter to implant in Ms. Hyde, if an IVC
14 filter carried with it a significant potential for
15 serious injury or death, that would be important
16 information for you to know as a clinician?

17 MR. LEIB: Yeah, and I think that does
18 call for an expert opinion, and I would instruct
19 him not to answer. And I would invite you to
20 re-frame the question to avoid invading the
21 privilege and --

22 MS. DALY: Join in the objection.

23 BY MR. SAELTZER:

24 Q. So Doctor, I want to go -- again, we'll
25 go back, we time travel back to your thought

1 process in exercising your clinical judgment back
2 to 2011 regarding Ms. Hyde. Do you have that time
3 period in mind?

4 A. Sure.

5 Q. Okay. And if the IVC filter, the G2X
6 that you implanted in Ms. Hyde in February of 2011,
7 carried with it a significant potential for serious
8 injury or death, and the company knew about that,
9 you would have wanted them to tell you that, fair
10 to say?

11 MR. LEIB: Let me object --

12 MS. DALY: Object.

13 MR. LEIB: -- I do think --

14 MS. DALY: Object to the form.

15 MR. LEIB: Yeah, I think it's a
16 hypothetical question, and I think it does draw
17 upon his expertise to be able to -- to know what or
18 what isn't significant, what -- you know, what
19 knowledge was known. And because he doesn't recall
20 this patient, to be able to apply it to a patient
21 is calling for -- it's a hypothetical question and
22 I think it does invade a privilege in that regard.
23 So I would instruct him not to answer.

24 MR. SAELTZER: Well, my question -- this
25 jury's going to hear evidence in this case and is

1 going to wonder what doctors rely upon, not lawyers
2 arguing in a court of law. But they're going to
3 have to determine in this case, with this doctor,
4 what type of information was important or not
5 important to that doctor based on the way this
6 doctor applies his clinical judgment.

7 And so I'm asking this doctor, who
8 implanted this filter, for his state of mind as to
9 the type of information at that time he considered
10 relevant to his clinical judgment. He's the only
11 one who made the decision to implant this filter,
12 and so his state of mind, not his opinion, but his
13 state of mind and custom and practice at that time
14 is -- isn't an expert opinion, it's very relevant
15 to what happened.

16 MR. LEIB: And --

17 MS. DALY: I'm going to object to the
18 leading nature of the question. And if you just
19 want to ask him what did he rely on at that time,
20 that would probably be a nonleading question.

21 MR. LEIB: Okay. And just so we
22 understand my role here, my only purpose is to
23 instruct him regarding privilege and representing
24 the witness; I can't assert or argue leading,
25 foundational, or anything else. But his

1 decision-making regarding this patient, we know he
2 doesn't remember the patient, and if the question
3 is what was your custom and practice regarding what
4 information you would use to make decisions
5 regarding this patient, that I don't have a problem
6 with, as long as it's asked in that form.

7 And if you recall, then you should
8 indicate you recall. And if you don't recall, you
9 should indicate you don't. He doesn't want you to
10 guess at what the answers are. So -- so you gotta
11 listen closely to the question. So could I ask
12 that you ask the question within a context so I
13 don't have an issue with privilege on it?

14 BY MR. SAELTZER:

15 Q. Doctor, based on your custom and
16 practice, if the company, Bard, knew that the G2X
17 filter that you implanted in Ms. Hyde carried a
18 significant risk of injury or death, that is the
19 type of information, based on your custom and
20 practice, you would have wanted to know about?

21 MS. DALY: Objection, leading, and a
22 hypothetical.

23 MR. LEIB: It's definitely a hypothetical
24 question, and the expertise that's required is to
25 know what you're talking about as to what's

1 significant or not. And unless he has some
2 recollection of 2011 and can state the answer
3 historically as opposed to giving a new opinion
4 now -- 'cause a new opinion now is privileged in
5 this. So unless you can answer that question
6 historically as to what your thought process was in
7 2011, if this would be giving a new opinion as of
8 today, then I would instruct you not to answer.

9 THE WITNESS: If the product is FDA
10 approved and I'm comfortable with it, I don't
11 usually hesitate.

12 BY MR. SAELTZER:

13 Q. What knowledge, if any, do you have of
14 how the Bard G2X filter received FDA clearance?

15 A. I do not know.

16 Q. At the time you implanted this filter,
17 did you believe it had gone through full clinical
18 trials to obtain FDA approval?

19 A. I'm guessing, yes.

20 Q. At least that was your state of mind back
21 then?

22 A. Yes.

23 Q. Are you aware of an alternate FDA
24 approval process called a 510(k) clearance?

25 A. No.

1 Q. Are you aware of an FDA process that
2 allows an abbreviated clearance if the company
3 proves the product is substantially similar to a
4 prior product that's already been cleared?

5 A. No.

6 Q. Fair to say your state of mind when you
7 implanted this G2X filter is that it was as safe
8 and effective as the competitors' filters that were
9 on the market at that time?

10 MS. DALY: Object to the form, leading.

11 MR. LEIB: I think you already asked and
12 answered that, actually. As of 2011, when this
13 was --

14 THE WITNESS: Yes. My answer's yes.

15 BY MR. SAELTZER:

16 Q. Part of your responsibilities as the
17 physician who implanted this filter in Ms. Hyde was
18 to explain to her the risks associated with the
19 filter; am I correct?

20 A. Yes.

21 MS. DALY: Objection, leading.

22 BY MR. SAELTZER:

23 Q. Did you receive training on that
24 obligation in medical school, your residency, and
25 also in your fellowship?

1 A. Yes.

2 Q. Is part of obtaining informed consent
3 included in the training to become an
4 interventional radiologist?

5 A. Yes.

6 Q. And to become a doctor?

7 A. Yes.

8 Q. Getting to your custom and practice in
9 2011, was it your practice to inform the patient of
10 all known risks, meaning risks you knew about that
11 were associated with an IVC filter you were
12 recommending be implanted in that patient?

13 MR. LEIB: Let me just object, it's not
14 the proper standard under which the doctor would
15 have been practicing in 2011. So I guess I'll let
16 him go ahead and answer the question as long as it
17 isn't construed presently, or at some later date,
18 as some waiver of a privilege. Is that acceptable
19 to you?

20 MR. SAELTZER: Sure.

21 MR. LEIB: Taylor, is that acceptable to
22 you?

23 MS. DALY: Yes.

24 MR. LEIB: Go ahead.

25 THE WITNESS: Could you repeat the

1 MR. SAELTZER: Yes.

2 MR. LEIB: Yeah, that wasn't your
3 question, though. You're asking him for a present
4 opinion as to whether or not something would have
5 been helpful to him in the past. That is calling
6 for an expert opinion. If you --

7 MS. DALY: Which --

8 MR. LEIB: Hold on.

9 MS. DALY: -- which -- which -- let me --
10 if I could add for the record, which also related
11 to a filter that was a predecessor to the filter in
12 the Hyde case.

13 MR. LEIB: Yeah, I'm not apprised of the
14 different filters, so I'll leave those objections
15 to counsel. But I'd invite you to rephrase the
16 question. But I think the way you phrased it, it
17 is invading his privilege, that's why I instructed
18 him not to answer.

19 BY MR. SAELTZER:

20 Q. Is the information that Bard determined
21 its Recovery filter migrated three times more than
22 the industry average the type of information you
23 would have found useful when you were making your
24 decisions about which filter to implant back in
25 2011?

1 THE WITNESS: Oh.

2 MR. LEIB: -- whether the instructions --
3 the question is whether or not the instructions
4 state that or whether or not he was aware of that
5 as of 2011? I'm sorry, I lost the question.

6 BY MS. DALY:

7 Q. Whether he believed it was within the
8 instructions for use precaution.

9 MR. LEIB: If you know.

10 THE WITNESS: I believe it was.

11 BY MS. DALY:

12 Q. All right. Thank you. Has any
13 manufacturer of an IVC filter provided you with any
14 information, over time, that showed alleged
15 comparative rates of complications among IVC filter
16 models on the market?

17 A. Probably.

18 Q. Do you recall any particular filter
19 product that that was done for -- done with?

20 A. I do not recall.

21 Q. Do you know if the FDA has any
22 limitations or restrictions on what a filter
23 manufacturer may provide by way of information
24 about complications to doctors?

25 MR. LEIB: Well, I think maybe that's

1 calling for an expert opinion, but I think if you
2 rephrase it as of 2011, when he did this care and
3 treatment, was he aware of that, then I wouldn't
4 have a problem with the question.

5 THE WITNESS: I don't specifically --

6 MS. DALY: Let me --

7 THE WITNESS: I don't --

8 BY MS. DALY:

9 Q. Let me go ahead and rephrase it, Doctor,
10 to cure that. Were you aware in 2011, at the time
11 you were placing Ms. Hyde's filter, what
12 limitations or restrictions, if any, the FDA had on
13 information a filter manufacturer can provide to
14 doctors?

15 A. No.

16 Q. And you were asked about the type of
17 regulatory process that Bard filters go through,
18 and the 510(k) process was mentioned to you by
19 plaintiff's counsel; do you recall?

20 A. Yeah, that happened within the last hour.

21 Q. Okay. Do you have any information, or
22 did you -- let me put it this way. Did you have
23 any information, at the time that you placed
24 Mrs. Hyde's filter, about what those regulations
25 under 510(k) process required Bard to provide to

EXHIBIT C

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*Attorneys for Defendants C. R. Bard, Inc.
and Bard Peripheral Vascular, Inc.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

In re Bard IVC Filters Products Liability
Litigation

NO. MD-15-02641-PHX-DGC

**DEFENDANTS' AMENDED NOTICE OF
VIDEOTAPED DEPOSITION DUCES
TECUM OF DAVID L. GARCIA, M.D.**

PLEASE TAKE NOTICE THAT, pursuant to F.R.C.P. Rules 26 and 30, and for all purposes authorized by the Federal Rules of Civil Procedure and all other purposes allowed by law, commencing at **9:00 a.m. P.S.T. on June 21, 2017**, at the offices of **Williams Kastner** located at **601 Union Street, Suite 4100, Seattle Washington 98101-2380, Conference Call-in dial 866-509-4812, Code 308978**, the defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. in the above-captioned action, will take the videotaped deposition of **David L. Garcia, M.D.**

1 The deposition will be taken before a videographer and court reporter duly authorized to
2 administer oaths and will continue from day to day until the examination is complete.

3
4 The deponent is asked to bring to the deposition the documents described in Exhibit "A"
5 regarding the above-referenced case.

6
7 DATED this 6th day of May, 2017.

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9 

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22 **Attorney for Defendants C. R. Bard, Inc.**
23 **and Bard Peripheral Vascular, Inc.**
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the above and foregoing has been served by email and First Class postage prepaid U.S. Mail on May 6, 2017, to the following:

Mark S. O'Connor, Esq.
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EXHIBIT A

1. Your current resume or Curriculum Vitae.
2. Your COMPLETE AND ENTIRE FILE in the matter *In Re: Bard IVC Filters Products Liability Litigation*, United States District Court for the District of Arizona, No. 2:14-MD-02641-DGC (the "Case") including, without limitation,
 - (a) All materials and documents provided to you or received by you in connection with the Case, including, without limitation,
 - (i) all materials and documents provided to you by Plaintiffs' counsel,
 - (ii) all articles, sources, references, treatises, guidelines, standards, and regulations,
 - (iii) all deposition or trial transcripts and exhibits,
 - (iv) all government guidances, regulations, and policies,
 - (v) all medical records, imaging, notes, reports, correspondence, and test results, relating to any plaintiff in the Case, and
 - (vi) all communications and emails between you and any fact or expert witness in the Case;
 - (vii) all communications and emails between you and Dr. Michael Streiff that relate in any way to the Case or the expert reports you and Dr. Streiff submitted in the Case;
 - (viii) all notes or summaries of any communications between you and Dr. Michael Streiff that relate in any way to the Case or the expert reports you and Dr. Streiff submitted in the Case.
 - (b) All materials and documents you relied upon and/or may rely upon in reaching your opinions in the Case;
 - (c) All research done by you, at your direction or provided to you in connection with your involvement in the Case;
 - (d) A list of all persons and background sources, if any, that you consulted and/or rely upon in connection with your review of or opinions in the Case; and
 - (e) Communications and emails between you and attorneys representing plaintiff in the Case that relate to
 - (i) your compensation,
 - (ii) any facts or data that were provided to you by the attorney, and
 - (iii) any assumptions that were provided to you by the attorney and upon which you rely in forming your opinions. See FRCP 26(b)(4)(C).
3. All documents concerning your inspection of or experimentation upon any medical device or material at issue in the Case, including documents sufficient to identify:

- (a) The date and location of the inspection or experimentation;
 - (b) The persons present during the inspection or experimentation;
 - (c) The protocol(s) followed for the inspection or experimentation, including details concerning (i) the make/model of the equipment used during the inspection or experimentation and the corresponding settings, (ii) the manner in which the device or material was preserved both before and after testing, and (iii) the method of preparation of the device or material prior to testing;
 - (d) Any photographs, micrographs and/or videos (in their original form, at their original resolution, and with all associated metadata) taken during the inspection or experimentation, including the identification of all devices depicted in the photographs or videos;
 - (e) The findings, results, and conclusions from the inspection or experimentation, including without limitation, (i) the raw data files native, electronic format, (ii) any and all data collected in any form; and
 - (f) Chain of custody information for any devices that were subject to your inspection and/or experimentation.
4. All invoices, bills, billing records, time records, and expense records connected with your involvement in the Case, including information sufficient to identify
- (a) your hourly rate;
 - (b) the amount of time you have spent in connection with your involvement in the Case;
 - (c) the nature of the activity or work your performed in connection with your involvement in the Case, and
 - (d) the dates on which such activity or work was performed.

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

In re Bard IVC Filters Products Liability
Litigation

NO. MD-15-02641-PHX-DGC

**DEFENDANTS' NOTICE OF
VIDEOTAPED DEPOSITION DUCES
TECUM OF KUSH DESAI, M.D.**

PLEASE TAKE NOTICE THAT, pursuant to F.R.C.P. Rules 26 and 30, and for all purposes authorized by the Federal Rules of Civil Procedure and all other purposes allowed by law, commencing at **9:00 a.m. C.S.T. on June 6, 2017**, at **McCorkle Court Reporters** located at **200 N. LaSalle Dr. #2900, Chicago IL 60601**, the defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. in the above-captioned action, will take the videotaped deposition of **Kush Desai, M.D.** The deposition will be taken before a videographer and court reporter duly

1 authorized to administer oaths and will continue from day to day until the examination is
2 complete.

3
4 The deponent is asked to bring to the deposition the documents described in Exhibit "A"
5 regarding the above-referenced case.

6
7 DATED this 18th day of May, 2017.

8
9 

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23 **and Bard Peripheral Vascular, Inc.**
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the above and foregoing has been served by email and First Class postage prepaid U.S. Mail on May 18, 2017, to the following:

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EXHIBIT A

1. Your current resume or Curriculum Vitae.
2. Your COMPLETE AND ENTIRE FILE in the matter *In Re: Bard IVC Filters Products Liability Litigation*, United States District Court for the District of Arizona, No. 2:14-MD-02641-DGC (the "Case") including, without limitation,
 - (a) All materials and documents provided to you or received by you in connection with the Case, including, without limitation,
 - (i) all materials and documents provided to you by Plaintiffs' counsel,
 - (ii) all articles, sources, references, treatises, guidelines, standards, and regulations,
 - (iii) all deposition or trial transcripts and exhibits,
 - (iv) all government guidances, regulations, and policies,
 - (v) all medical records, imaging, notes, reports, correspondence, and test results, relating to any plaintiff in the Case,
 - (vi) all communications and emails between you and any fact or expert witness in the Case,
 - (vii) all communications and emails between you and other physicians at Northwestern or Interventional Cardiologist's LLC that relate in any way to the Case, the Report of Robert L. Vogelzang, M.D. (signed March 2, 2017), or the Medical Monitoring (Morris) Rebuttal Report of Kush R. Desai, M.D. and Robert L. Vogelzang, M.D. (signed April 19, 2017),
 - (b) All materials and documents that you have reviewed at any time and from any source that relate to inferior vena cava filters, C.R. Bard's inferior vena cava filters, or inferior vena cava filters designed, manufactured or distributed by any other entity;
 - (c) All materials and documents you relied upon and/or may rely upon in reaching your opinions in the Case;
 - (d) All research done by you, at your direction or provided to you in connection with your involvement in the Case;
 - (e) A list of all persons and background sources, if any, that you consulted and/or rely upon in connection with your review of or opinions in the Case; and
 - (f) Communications and emails between you and attorneys representing plaintiff in the Case that relate to
 - (i) your compensation,
 - (ii) any facts or data that were provided to you by the attorney, and
 - (iii) any assumptions that were provided to you by the attorney and upon which you rely in forming your opinions. See FRCP 26(b)(4)(C).

3. All documents concerning your inspection of or experimentation upon any medical device or material at issue in the Case, including documents sufficient to identify:
 - (a) The date and location of the inspection or experimentation;
 - (b) The persons present during the inspection or experimentation;
 - (c) The protocol(s) followed for the inspection or experimentation, including details concerning (i) the make/model of the equipment used during the inspection or experimentation and the corresponding settings, (ii) the manner in which the device or material was preserved both before and after testing, and (iii) the method of preparation of the device or material prior to testing;
 - (d) Any photographs, micrographs and/or videos (in their original form, at their original resolution, and with all associated metadata) taken during the inspection or experimentation, including the identification of all devices depicted in the photographs or videos;
 - (e) The findings, results, and conclusions from the inspection or experimentation, including without limitation, (i) the raw data files native, electronic format, (ii) any and all data collected in any form; and
 - (f) Chain of custody information for any devices that were subject to your inspection and/or experimentation.
4. All invoices, bills, billing records, time records, and expense records connected with your involvement in the Case, including information sufficient to identify
 - (a) your hourly rate;
 - (b) the amount of time you have spent in connection with your involvement in the Case;
 - (c) the nature of the activity or work your performed in connection with your involvement in the Case, and
 - (d) the dates on which such activity or work was performed.
5. All invoices, bills, billing records, time records, and expense records connected in any way with Interventional Cardiologist's LLC (or any of its members) involvement in the Case, the Report of Robert L. Vogelzang, M.D. (signed March 2, 2017), or the Medical Monitoring (Morris) Rebuttal Report of Kush R. Desai, M.D. and Robert L. Vogelzang, M.D. (signed April 19, 2017), including information sufficient to identify
 - (a) hourly rates;
 - (b) the amount of time each member of Interventional Cardiologists LLC spent in connection with the Case;
 - (c) the nature of the activity or work performed in connection with Interventional Cardiologists LLC's (or any of its members) involvement in the Case; and
 - (d) the dates on which such activity or work was performed and by whom.